

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA,) CASE NO. 3:13CR00003-1
v.)
JOHNNIE EDWARD BANKS, JR.,) MEMORANDUM OPINION
Defendant.)
) By: Norman K. Moon
) United States District Judge

Johnnie Edward Banks, Jr., proceeding *pro se*, filed this motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255. Banks fails to state any ground on which he seeks relief under this statute. While I could grant Banks an opportunity to amend to state his grounds for relief, it appears that any such amendment would likely be time barred from my review under § 2255(f)(1).¹ Accordingly, I will dismiss the present § 2255 motion without prejudice to Banks' ability to file a new § 2255 action at some later time, should he discover grounds for relief that would be timely under the other subsections of § 2255(f).

¹ This subsection of § 2255 reads as follows:

(f) A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

(1) the date on which the judgment of conviction becomes final;

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence. . . .

28 U.S.C. § 2255(f).

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the defendant.

ENTER: This 14th day of May, 2015.


NORMAN K. MOON
UNITED STATES DISTRICT JUDGE